

ELLIOTT & ELLIOTT, P.A.

ATTORNEYS AT LAW

1508 Lady Street
COLUMBIA, SOUTH CAROLINA 29201
selliott@elliottlaw.us

SCOTT ELLIOTT

TELEPHONE (803) 771-0555
FACSIMILE (803) 771-8010

February 23, 2015

VIA E-FILING

Jocelyn Boyd, Esquire
Chief Clerk and Administrator
South Carolina Public Service Commission
101 Executive Center Drive
Columbia, SC 29210

RE: B2 Holdings, LLC, Complainant/Petitioner v. Carolina Water Service, Inc.
Defendant/Respondent
Docket No. 2014-481-WS

Dear Ms. Boyd:

Enclosed for filing please find the Return to Complainant/Petitioner's Motion to Amend Complaint filed on behalf of Carolina Water Service, Inc. and Certificate of Service in connection with the above-referenced matter. By copy of this letter I am serving all parties of record.

If you or counsel has questions, please feel free to contact me.

Sincerely,

Elliott & Elliott, P.A.



Scott Elliott

SE/lbk

Enclosures

cc: All Parties of Record w/enc.

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2014-481-WS

IN RE: B2 Holdings, LLC)	
Complainant/Petitioner v. Carolina)	RETURN TO
Water Service, Inc.,)	COMPLAINANT/PETITIONER'S
Defendant/Respondent)	MOTION TO AMEND COMPLAINT
)	

Carolina Water Service, Inc. ("Carolina Water"), the Defendant/Respondent in the above-captioned docket, herewith makes Return to Complainant/Petitioner's Motion to Amend Complaint.

On or about December 30, 2014, B-2 Holdings filed a complaint with this Commission that was assigned Docket No. 2014-481-WS. The complaint was served on Carolina Water January 6, 2015. The complaint challenges the manner in which Carolina Water's commercial sewer service rates were designed. Carolina Water's rates are based upon equivalencies established under the South Carolina Department of Health and Environmental Control ("DHEC") guidelines found in Appendix A to R. 61-67. The rate design has been historically authorized for Carolina Water by the Commission, most recently by Order No. 2014-207 filed March 4, 2014 in Docket No. 2013-275-W/S. The complaint requests the Commission to require Carolina Water to charge rates that are not authorized by Order No. 2014-207.

The Complainant/Petitioner's Motion to Amend does not set out a proposed amended complaint, specific factual allegations or a prayer for relief. However, the Complainant/Petitioner's argument does not set forth grounds sufficient to justify the relief requested.

1. The Plaintiff/Petitioner concedes that the Defendant/Respondent is charging the rates approved under its present tariff (Motion to Amend, page 1). However, the Plaintiff/Petitioner argues that the Commission order the Defendant/Respondent to reduce its rates based upon amendments to the loading guidelines proposed by the South Carolina Department of Health and Environmental Control ("DHEC") submitted to the General Assembly for approval January 13, 2015. The Complaint/Petitioner requests that any reduction in rates be applied retroactively and prospectively. The Complainant/Petitioner's Motion should be denied.

First, the proposed changes to the loading guidelines will not be effective, if at all, before May 13, 2015. See S.C. Ann. Code § 1-23-120. As the public record will reflect, the proposed DHEC regulations were received by the Lt. Governor and Speaker January 13, 2015 and become effective by operation of law May 13, 2015. However, the General Assembly retains the authority to amend or reject these proposed regulations and approval is not at all certain. Moreover, even were the proposed DHEC loading guideline changes to become effective, they would not operate to change the rates charged the Complainant/Petitioner.

It is important to note that the proposed guidelines not only reduce loading on restaurants from 40 to 30 gallons per seat but also they reduce the loading flow measured in

gallons per day SFE from 400 to 300. The reduction of both loading factors serves to preserve the rate design approved in Order No. 2014-207 and will have no impact on the Complainant/Petitioner's customers. More important, the Complainant/Petitioner does not proffer evidence of the Defendant/Respondent's cost of service, the revenue required to meet its cost of service or the allocation of expense and revenue to the appropriate class of customers. Any change in rate design is best handled in the next rate case.

Last, even if the Commission were to grant the Complainant/Petitioner relief on this point, any change in rates would have to be prospective only because granting by Commissioners without jurisdiction to engage in retroactive rate making. *SCE&G Co. v. Public Service Commission*, 275 S.C. 487, 272 S.E. 2d 793 (1980).

2. The Defendant/Respondent properly billed the Complainant/Petitioner for the period October 12 through November, 2013. The Complainant/Petitioner challenged its sewer service rates for that period in Docket No. 2013-71-WS. The complaint in that docket was dismissed by Order No. 2014-765. The Complainant/Petitioner's challenge to historical rates has been resolved and is barred by the doctrine of *res judicata*. *Hilton Head Center of South Carolina, Inc. v. The Public Service Commission of South Carolina and Hilton Head Plantation Utilities, Inc.*, 294 S.C. 9, 362 S.E.2d 176 (1987).

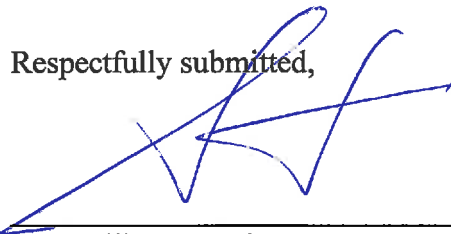
The Complainant/Petitioner has been properly billed the amount of \$1,140.00 for six (6) months of undercharged sewer service pursuant to S.C. Code Reg. 103-533. As is its option, the Complainant/Petitioner requests that it be permitted to pay the undercharged amount over a six (6) month period rather than in a single payment. The

Defendant/Respondent will certainly accept payment of the undercharged amount over a six (6) month period as requested. Accordingly this issue is resolved.

3. The Complainant/Petitioner argues that its rate for sewer service should be based on water consumption. The Defendant/Respondent is charging rates approved by Order No. 2014-207, a fact the Complainant/Petitioner effectively concedes. For the reasons argued in its Motion to Dismiss, the Commission is without authority to grant the Complainant/Petitioner's relief requested. (See Defendant/Respondent's Motion to Dismiss at pages 3-5).

The Complainant/Petitioner asserts no facts, or inferences to be drawn therefrom, that would suggest that it is entitled to the relief requested in its Motion to Amend the Complaint. Accordingly, the Defendant/Respondent respectfully requests that the Complainant/Petitioner's Motion to Amend be denied.

Respectfully submitted,



Scott Elliott, Esquire
Elliott & Elliott, P.A.
1508 Lady Street
Columbia, SC 29201
Phone: (803) 771-0555
Fax: (803) 771-8010
Email: selliott@elliottlaw.us

Attorney for Defendant/Respondent Carolina
Water Service, Inc.

Columbia, South Carolina
February 23, 2015

CERTIFICATE OF SERVICE

The undersigned employee of Elliott & Elliott, P.A. does hereby certify that she has served below listed parties with a copy of the pleading(s) indicated below by mailing a copy of same to them in the United States mail, by regular mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

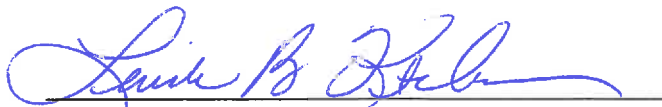
RE: B2 Holdings, LLC, Complainant/Petitioner v. Carolina
Water Service, Inc., Defendant/Respondent
Docket No. 2014-481-WS

PARTIES SERVED: Jeffrey M. Nelson, Esquire
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201

Laura P. Valtorta, Esquire
903 Calhoun Street
Columbia, SC 29201

PLEADINGS: Return to Complainant/Petitioner's Motion to Amend
Complaint

February 23, 2015



Linda B. Kitchens
Legal Assistant